

Federal Defenders
OF NEW YORK, INC.

One Pierrepont Plaza-16th Floor, Brooklyn, NY 11201
Tel: (718) 330-1200 Fax: (718) 855-0760

David Patton
*Executive Director and
Attorney-in-Chief*

Deirdre D. von Dornum
Attorney-in-Charge

September 13, 2022

The Honorable Hector Gonzalez
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

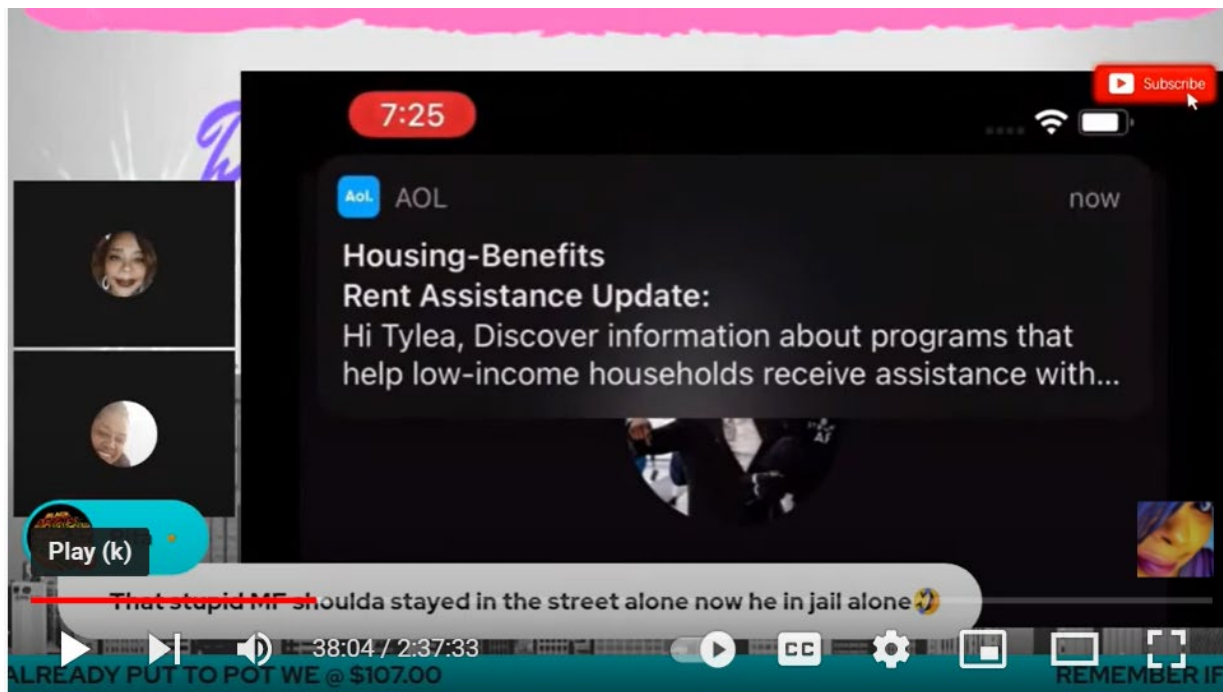
Re: *United States v. Christopher Gunn*, 22-CR-314

Dear Judge Gonzalez:

On August 19, 2022, the Court issued a protective order, over defense objection. After the order was issued, the government produced preliminary discovery to the defense, including the video clip that is the subject of the indictment. (This video is marked CG 91, and is provided to the Court under separate cover, and under seal). That video clip was marked “protected” discovery, a designation that prevents Christopher Gunn from having a copy of the video clip. I am writing to request a modification of that order with respect to this video as the defense has since learned that a copy of the same video clip is currently publicly available on the internet. Thus, everyone with access to the internet can view the “protected” video clip as many times as they want, while Mr. Gunn (who has no access to the internet) has not yet seen it. Accordingly, I respectfully request that the Court permit Mr. Gunn to have a copy of the video clip – the main evidence in his case – so that he can review it at his home, as often as he would like, in preparation of his defense.

The internet-version of the video clip is available here, beginning around the 36:30 minute mark: <https://youtu.be/VDn1vUOuS2U>. This internet-version appears to be an exact copy of the video clip provided in discovery. The only differences appear to be written comments that appear as people on the internet watch the video

play, and verbal comments from the youtube blogger who posted the video. The reason these video clips appear to be exactly the same is not just the content, but also that both – the one currently available on the internet, and the one provided in discovery – have the same pop-up message:



BREAKING NEWS: R KELLY FAN CHARGED W/ THREATENING FEDS

Screen shot from: <https://youtu.be/VDn1vUOuS2U>

After learning that the same “protected” video clip was currently on the internet, I called the government and asked if it would agree to modify the protective order to allow Mr. Gunn to have a copy of this video clip. The government said no. The government also stated that the reasons for the protective order had not changed. The government originally stated there was good cause for a protective order preventing Mr. Gunn from possessing “protected” discovery because of “personally identifiable information for witnesses” that “implicate[s] the privacy and safety concerns of witnesses.” Dkt. 19, p. 4. Given that the same video clip is currently publicly available, there can be no legitimate “privacy” concern that would be implicated by Mr. Gunn having the video clip. This Court should find that there is none.

Therefore, I respectfully request that the Court modify the protective order so that CG 91 is no longer protected discovery and Mr. Gunn can have a copy of it to review.¹

Respectfully Submitted,

/s/

Allegra Glashausser

Assistant Federal Defenders

¹ In an abundance of caution, and to ensure compliance with the current protective order, I am filing this letter under seal as it “discuss[es]” discovery marked “protected.” However, I respectfully request that the Court unseal this letter, for the same reasons explained above: it relates to a video clip that is publicly available.